

Proposed Scope and Procedures for Sixth and Final Meeting of the Advisory Committee on Acoustics Impacts on Marine Mammals¹

Purpose and Scope

The meeting will go forward on 20-22 September 2005, with a **goal of reaching consensus on a report from the Advisory Committee to the Marine Mammal Commission.**

In order to achieve the goal in the three days available, the Committee agreed to proceed with a proposal to focus and reach agreement on the following three sections (working from the August 5 draft):

- The Executive Summary
- The Synthesis of Current Knowledge chapter, excluding the strandings section
- The Management and Mitigation chapter

In addition, Committee members may propose and seek consensus on portions of the Research chapter, which could be inserted into the sections listed above.

Procedures

The Committee will continue to work under its agreed upon Operating Procedures, including the provision that **all Committee decisions are made by consensus** (defined as all can live with the decision). Committee decisions about the final report are subject to this provision. The Operating Procedures are included in Attachment 1.

In addition, the Committee agreed on the conference call to the following **specific procedures for discussions of its final report.**

Reflecting Disagreements

- Individual Committee members or caucuses will have the option of preparing statements of reservation or disagreement that will be attached to the Advisory Committee report in an appendix.
- The Committee will characterize disagreements with “some think/others have the view” sentences **when all can live with doing so** for specific disagreements.
- When the Committee cannot agree on how to characterize disagreements as described above, it will state that the Committee could not reach agreement on the issue, and refer readers to statements of reservation or qualification that will be attached to the report.

¹ As proposed and agreed upon during September 12 conference call of the Advisory Committee. These procedures will be discussed and finalized at the September 20 meeting.

Meeting Agenda and Preparation

- The meeting will begin with discussion of the Executive Summary proposals from caucuses. Then the Committee will try to find agreement on the other two chapters. **Committee members or caucuses must bring to the September 20-22 meeting their proposed Executive Summary language (in redline for distribution). This language must capture what the author(s) could live with, and attempt to address the concerns raised by others in their comments on the August 5th draft.** If the facilitators and staff receive these documents by noon EDT on Monday, September 19, we will reproduce them for the Committee. If we do not receive them by that time, the authors are asked to bring 120 copies to the meeting. Please submit redlines of the Executive Summary to Suzanne, Lee, and Erin Vos. The redline versions will become the basis of the discussion of language for the Executive Summary.
- Committee members and/or caucuses should also develop and bring proposals for compromise language for bracketed sections of the Synthesis of Current Knowledge (August 15 draft) and Management and Mitigation (August 5 draft) chapters and for other portions of the report they cannot live with. Time for discussion of these more lengthy chapters will be short, so the following process for moving through them quickly will be used:
 - Committee members will identify what is not agreed upon, and if new language cannot be proposed and accepted quickly, the item will be flagged as a disagreement to be listed in the Executive Summary (see above), and the discussion will move on. Time will not be available for line editing of these chapters.
- Caucus time will be available each day of the meeting, but will be limited depending on the time needed for plenary discussion to reach consensus. (See the draft Agenda for a proposed allocation of caucus timer.)

The Committee will formalize its agreement on these procedures at the beginning of the meeting. If members cannot live with any of these procedures, they should come to the meeting with an alternative proposal that does not put any other member at a disadvantage.

Logistics

- We will provide projectors for four caucuses, but ask that each caucus provide a laptop for use in the caucus sessions.
- We will not provide a hard copy of the August 5 draft report to Committee members, but copies will be available for the public.
- Three caucus rooms and the main meeting room will be available for use in the evenings.

ATTACHMENT A: Final Operating Procedures

Advisory Committee on Acoustic Impacts on Marine Mammals

OPERATING PROCEDURES

For any voluntary collaborative forum to operate smoothly, it is helpful for those involved to agree at the outset on the purpose for the process and on the procedures by which the group will govern its discussions, deliberations, and decision-making. These draft procedures will be reviewed, discussed, revised and adopted by the Advisory Committee at its first meeting.

1. PURPOSE AND GOAL FOR THE ADVISORY COMMITTEE

The Omnibus Appropriations Act of 2003 (Act), Public Law 108-7, directed the Marine Mammal Commission (Commission) to “fund an international conference or series of conferences to share findings, survey acoustic ‘threats’ to marine mammals, and develop means of reducing those threats while maintaining the oceans as a global highway of international commerce.” To assist in meeting this directive, the Commission establishes the Advisory Committee on Acoustic Impacts on Marine Mammal (Committee), under the Federal Advisory Committee Act, to:

- 1) Review and evaluate available information on the impacts of human-generated sound on marine mammals, marine mammal populations, and other components of the marine environment,
- 2) Identify areas of general scientific agreement and areas of uncertainty or disagreement related to such impacts,
- 3) Identify research needs and make recommendations concerning priorities for research in critical areas to resolve uncertainties or disagreements, and
- 4) Recommend management actions and strategies to help avoid and mitigate possible adverse effects of anthropogenic sounds on marine mammals and other components of the marine environment.

The Committee’s charge is to develop recommendations to the Commission for inclusion in a report to Congress from the Commission. The Commission asks the Committee to develop as much consensus on these recommendations as is achievable. On issues where the Committee does not or cannot reach consensus, this will be noted and the Commission may develop, if it so chooses, its own recommendations to Congress on those issues.

2. STRUCTURE OF THE COMMITTEE

Advisory Committee: The Advisory Committee will consist of those members appointed by the Commission. The full Committee will be the decision-making forum for the Committee. The Commission will have two members on the Committee.

Subcommittees: The Committee may establish subcommittees to assist it in developing draft proposals or products for consideration at specific Committee meetings. The membership of subcommittees is subject to the approval of the Committee and may be drawn from individuals who are not Committee members. All subcommittees work at the direction of and report to the Committee. The Committee will develop a scope of work for each subcommittee, outlining the desired membership and expertise, schedule, and product. Subcommittees will operate by the same consensus rule as the Committee.

Technical Resources: The Committee may identify the need for assistance from technical resource experts for the Committee or for Subcommittees. For expertise for the Committee, the Committee will identify experts through discussion and consensus to ensure that all members obtain information that they find useful. For Subcommittees, the Subcommittee will seek to develop the consensus on the experts it requests. If the Committee or Subcommittee cannot reach consensus on one specific expert, technical experts representing differing views may be consulted. The Commission will assist the Committee to obtain the requested technical experts to the extent that it is economically and practically feasible to do so.

3. PARTICIPATION

Interests Represented: Committee membership is limited to those appointed by the Commission. The list of appointed members is included in Attachment A.

Responsibilities of Committee Members: Committee members are responsible for representing the views of other members in their constituency to the maximum extent feasible, and for communicating with others in their interest group. Members are responsible for ensuring that all significant issues and concerns of their organizations and constituents are fully and clearly articulated during Committee meetings. Members are also responsible for ensuring, to the maximum extent feasible, that any eventual recommendations or agreements are acceptable to their constituents and/or the agencies or organizations that they represent.

Alternates: Each member is expected to attend all meetings in their entirety. Each member can also recommend to the Commission an alternate who will, upon Commission approval, attend meetings or portions of meetings when the member is unable to fill his or her seat. The Committee does not intend for this provision to allow for the de facto representation of two members from a constituency in one seat. Alternates who attend meetings with their Committee member can address the Committee in the public comment period. It is the responsibility of the member and the alternate to communicate to ensure that there are no disruptions in the process when an alternate joins the Committee deliberations.

Participation of Those Who Are Not Committee Members: Committee members may request to hear from experts who are in the room but are not on the Committee.

Other Commitments of Members: Members are asked to:

- Share all relevant information that will assist the Committee in achieving its goals;
- Keep their organizations' decision-makers informed of potential decisions and outcomes, in order to expedite approval for the final product to the greatest extent

- possible;
- Resolve issues being addressed within the Committee structure, not through side bar discussions and agreements that may place other Committee members at a disadvantage;
 - Refrain from characterizing the views of other Committee members, or the Committee as a whole, in any interactions with the press; and
 - Support the eventual product if they have concurred in it.

Addition of Members: Additional members may join the Committee only with the agreement of the Commission and the Committee, and only if they represent an interest that is not already represented.

4. DECISION-MAKING AND COMMITMENT

Consensus: When concurrence among the members is desired, the Committee will make decisions by consensus. The Committee will use the following definition of consensus: all Committee members can live with a given recommendation or decision. Committee members are responsible for making known any areas of disagreement throughout the process. If the group cannot reach consensus, members will evaluate the consequences of their disagreement and decide together how to address the lack of agreement with due consideration of the need for full, fair and equitable discussion of all perspectives on any issue. The disagreements will be summarized and can become part of the Committee's report if the Committee so chooses.

Role of the Commission: The Commission will participate as full members of the Committee, engaging in the Committee on the issues and exchanging views on the topics discussed. The Commission will provide technical support to the Committee as requested, to the extent feasible. The Commission intends to use any recommendations on which there is consensus in its report to Congress. On issues where the Committee does not or cannot reach consensus, the disagreements will be described in the Committee report. The Commission will include those disagreements in its report to Congress and may develop, if it so chooses, its own recommendations to Congress on those issues.

Decision-Making Process: Decisions will be made by consensus of those present at the meeting except in the case of concurrence on major products, for which consensus and sign-off from all Committee members will be sought. Major products include draft and final Committee reports.

5. SAFEGUARDS

Good Faith: All Committee members agree to act in good faith in all aspects of the Committee's operation. They further agree that specific offers made in open and frank problem-solving conversations will not be used against any other member in future litigation or public relations. Good faith requires that individuals not represent their own personal or organization's views as views of the entire Committee, and that the views and opinions they express in the Committee deliberations are consistent with the views they express in other forums.

Committee Products: The Advisory Committee will develop draft and final reports to the Commission outlining consensus recommendations and areas of disagreement. The Committee may also develop preliminary draft recommendations, chapters of its final report, and other documents that will assist the Committee in reaching consensus on a final report. All agreements on preliminary products will be considered provisional until the Committee has reached consensus or otherwise finalized its final report.

Commission Report: The draft final Report to Congress from the Commission will be sent by electronic mail to the Committee members and the Committee members will have an opportunity to review and comment. The Commission Report will include verbatim the Committee's report.

Press and External Contacts: All meetings of the Committee will be open to the public, and members of the press may attend. Committee members and facilitators may speak to the press and other entities but all agree to refrain from characterizing the views of other Committee members, or the Committee as a whole, in any interactions with the press.

6. MEETING PROCEDURES

Caucusing: Any member may request a caucus with any other member(s) at any time. The person requesting the caucus will specify who is included in the caucus and how much time is being requested. (This technique will be most useful when the Committee is working to make decisions or to finalize recommendations.)

Facilitation: The Committee meetings will be facilitated. The facilitators will work with the Committee to create a forum that is constructive and balanced for all participants. They will be unbiased in their facilitation and not take positions on the issues before the Committee. The facilitators will work to ensure that the meetings stay on topic and that all points of view are heard during discussions. Facilitators will keep confidential information disclosed to them in confidence.

Open to the Public: Meetings of the Committee will be conducted consistent with the Federal Advisory Committee Act (FACA), and will be open to the public and announced in the *Federal Register*. Recommendations made by subcommittees will be brought to the full Committee for consideration, and will be posted on the Commission's website.

Meeting Summaries: The facilitators will develop summaries of each meeting, in consultation with the Commission. The summaries will be distributed to the Committee or appropriate subcommittee for review prior to their posting on the Commission's web site. The Committee will have ten business days to provide comments and corrections, after which the draft summary will be posted on the Commission's web site. Committee members who desire to do so are free to tape record the Committee meetings.